

AMENDED IN SENATE MAY 5, 2014

AMENDED IN ASSEMBLY APRIL 7, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 1938**

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**Introduced by Assembly Member Hagman**  
*(Coauthor: Senator Vidak)*

February 19, 2014

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An act to amend Section 340.3 of the Code of Civil Procedure, relating to actions for damages.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1938, as amended, Hagman. Actions for damages: felony offenses.

Existing law authorizes, except as provided, an action for damages against a defendant based upon the defendant's commission of a felony offense for which the defendant has been convicted to be commenced within 10 years of the date on which the defendant is discharged from parole if the conviction was for any of certain serious felonies, as defined, except as specified.

This bill would authorize, except as provided, an action for damages against a defendant who was found not guilty by reason of insanity to be commenced within 10 years of a specified date. The bill would also make nonsubstantive changes and update a cross-reference in these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 340.3 of the Code of Civil Procedure is amended to read:

340.3. (a) Unless a longer period is prescribed for a specific action, in any action for damages against a defendant based upon the defendant's commission of a felony offense for which the defendant has been convicted, the time for commencement of the action shall be within one year after judgment is pronounced.

(b) (1) Notwithstanding subdivision (a), an action for damages against a defendant based upon the defendant's commission of a felony offense for which the defendant has been convicted may be commenced within 10 years of the date on which the defendant is discharged from parole if the conviction was for any offense specified in paragraph (1), except voluntary manslaughter, (2), (3), (4), (5), (6), (7), (9), (16), (17), (20), (22), (25), (34), or (35) of subdivision (c) of Section 1192.7 of the Penal Code.

(2) Notwithstanding subdivision (a), an action for damages against a defendant based upon the defendant's commission of a felony offense for which the defendant was found not guilty by reason of insanity may be commenced within 10 years of the date on which the defendant is released from custody if the offense was for any offense specified in paragraph (1), except voluntary manslaughter, (2), (3), (4), (5), (6), (7), (9), (16), (17), (20), (22), (25), (34), or (35) of subdivision (c) of Section 1192.7 of the Penal Code.

(3) A civil action shall not be commenced pursuant to paragraph ~~(1), (2), or (3)~~ (1) or (2) if any of the following apply:

(A) The defendant has received either a certificate of rehabilitation as provided in Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or a pardon as provided in Chapter 1 (commencing with Section 4800) or Chapter 3 (commencing with Section 4850) of Title 6 of Part 3 of the Penal Code.

(B) Following a conviction for murder or attempted murder, the defendant has been paroled based in whole or in part upon evidence presented to the Board of Prison Terms that the defendant committed the crime because he or she was the victim of intimate partner battering.

1 (C) The defendant was convicted of murder or attempted murder  
2 in the second degree in a trial at which substantial evidence was  
3 presented that the person committed the crime because he or she  
4 was a victim of intimate partner battering.

5 (c) If the sentence or judgment is stayed, the time for the  
6 commencement of the action shall be tolled until the stay is lifted.  
7 For purposes of this section, a judgment is not stayed if the  
8 judgment is appealed or the defendant is placed on probation.

9 (d) (1) Subdivision (b) applies to any action commenced before,  
10 on, or after the effective date of this section, including any action  
11 otherwise barred by a limitation of time in effect before the  
12 effective date of this section, thereby reviving those causes of  
13 action that had lapsed or expired under the law in effect before the  
14 effective date of this section.

15 (2) Paragraph (1) does not apply to either of the following:

16 (A) Any claim that has been litigated to finality on the merits  
17 in any court of competent jurisdiction before January 1, 2003. For  
18 purposes of this section, termination of an earlier action on the  
19 basis of the statute of limitations shall not constitute a claim that  
20 has been litigated to finality on the merits.

21 (B) Any written, compromised settlement agreement that has  
22 been entered into between a plaintiff and a defendant if the plaintiff  
23 was represented by an attorney who was admitted to practice law  
24 in this state at the time of the settlement, and the plaintiff signed  
25 the agreement.

26 (e) Any restitution paid by the defendant to the victim shall be  
27 credited against any judgment, award, or settlement obtained  
28 pursuant to this section. Any judgment, award, or settlement  
29 obtained pursuant to an action under this section shall be subject  
30 to the provisions of Section 13963 of the Government Code.